



UNITED STATES DEPARTMENT OF COMMERCE
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CHIEF/SENIOR EXAMINER	
ART UNIT	PAPER NUMBER
1804	

DATE MAILED:

09/03/93

The office action of 8/26/93 is vacated with regard to the suggestion to copy claims in favor of the action set forth below. The time for response is hereby reset to give Applicants two (2) months from the original date of

8/26/93 to respond to this action in accordance with MPEP 710.02(c). Note Commissioner of Patents.

- 5 that the office action with regard to claims 15-44 and 46-52 is not vacated and the clock continues to run for a shortened statutory period of three (3) months from the 8/26/93 date.

The following allowable claim is suggested for the purpose of an interference:

10 A tomato plant which has been regenerated from a tomato plant cell transformed to comprise a full length Bacillus thuringiensis crystal protein gene capable of encoding a Bacillus thuringiensis crystal protein of about 130 kD under control of a promoter such that said gene is expressible in said plant in amounts insecticidal to Lepidopteran insects.

15 The suggested claims must be copied exactly, although other claims may be proposed under 37 C.F.R. § 1.605(a).

APPLICANT SHOULD MAKE THE SUGGESTED CLAIM WITHIN TWO MONTHS FROM THE DATE OF THE ORIGINAL LETTER WHICH WAS SENT 8/26/93. FAILURE TO DO SO WILL BE CONSIDERED A DISCLAIMER OF THE SUBJECT MATTER OF THIS CLAIM UNDER THE PROVISIONS OF 37 C.F.R. § 1.605(a). THE EXTENSION OF TIME PROVISIONS OF 37 C.F.R. § 1.136(a) DO NOT APPLY TO THIS TIME PERIOD.

Claims 15-44 and 46-52 are considered unpatentable over the above suggested claim.

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SUPERVISORY PATENT EXAMINER
APR 19 1994
1 Patent Application File Copy